TAFT OPENS HIS OWN CAMPAIGN

Continued from First Page

of abuses, he said. Action by the next Congress, Secretary Taft said, would ! the matter up in a Presidential campaign. He advocated therefore a pledge in the Republican platform that the tariff would be revised and action postponed until revision would be less affected by political considerations.

Secretary Taft, after expressing approval of the rate law and endeavoring to answer its critics, expressed his approval of the plan to amend it by requiring certificates from the Interstate Commerce Commission for all issues of securities as a remedy against overcapitalization. He also said that he was in favor of another amendment limiting stock ownership and referred to the Harriman investigation as revealing a "dangerous tendency which, if not stopped, will lead to the absorption of all the railroads in the country into one

Evidently replying to the criticism of the centralizing policy here disclosed, he said that the constitutional limits of Federal action should not be blurred out or the Federal power expanded by doubtful construction to interfere with State rights. But the right of Congress to take action to control interstate commerce, he said, could not be denied.

In regard to trusts Mr. Taft declared it to be his belief that rigorous enforcement of existing laws against illegal combinations and "equal and just operation of the railways would restrain the great corporations within the bounds of legitimate and useful business.

Mr. Taft came out in approval of legislation against fortunes due to rebating or some form of monopoly or overcapitali-Such legislation, he declared, properly belonged to the States. He advocated a Federal graduated inheritance tax and an income tax at such times as the Government revenues needed addition or readjustment. Secretary Taft's speech in

Secretary Taft's Speech

Members of the Buckeye Republican Club and Fellow Citizens of Ohio: QUICKENING OF PUBLIC CONSCIENCE IN MIDST OF PROSPERITY

The present is a period of the greatest resperity, general comfort and even uxury. Throughout this country the deprosperity, general compet and luxury. Throughout this country the demand for labor has increased wages to a higher point than ever known before. The compensation of skilled labor now frecompensation of skilled labor now frecompensation of skilled labor now frequently exceeds that of certain professions, like teaching and the ministry. Wealth has accumulated enormously in the hands of individuals and never before have rich men given so freely of their fortunes to educational and charitable objects. Such conditions are apt to dim and dull the eye and the ear of the people to abuses and dishonesty in the body politic and social. It was such periods in the history of ancient republics when their foundations were sapped and their fall ultimately brought about. Prophets of evil have foretold the same fate for this republic. They have been refuted. In spite of the general comfort there have been made manifest by signs not to be misunderstood a quickening of the public conscience and a demand for the public conscience and a demand fo of the public conscience and a demand for the remedy of abuses, the outgrowth of this prosperity, and for a higher standard of business integrity. Every lover of his country should have a feeling of pride and exaltation in this evidence that our society a still sound at the core.

ABUSES IN RAILWAY DISCRIMINATIONS I have been invited by your body to dis cuss the national issues. Some of these involve the abuses over which the public conscience has been aroused, and the proper remedies for their removal. The first, and possibly the greatest, abuse has been in the management of the arterial system of the country which the interstate form. Any unjust discrimination in the terms upon which transportation of freight or passengers is afforded an indi-vidual or a locality paralyzes and withers the business of the individual or the localit exactly as the binding of the arteries and veins leading to a member of the human body destroys its life.

PAILURE OF THE OLD INTERSTATE COMMERCE

LAW AND CAUSES. The result of twenty years operation nner result of twenty years operation under the interstate commerce act of 1887, passed to restrain abuses of unjust discrimination and unreasonableness of rates, was that the railroads came to regard the action of the commission it created as of no im-portance. The delays, due to the necessity of resorting to the courts to try out the merits of every order of the commission before it became effective, made the remedy of the complaining shipper or locality so slow and burdensome that in contested cases it was no remedy at all. The commission was not, under the old act, author ized to fix reasonable rates. It could only say that a particular rate was unreasonable and order a railroad to change its rate and fix a new rate at anything less than th rate declared to be unreasonable, and the reduction made was not sufficient new action had to be brought to decide tha the new rate was also unreasonable PRESIDENT ROOSEVELT'S RECOMMENDATION

Made aware of the moribund condition Made aware of the moribund condition of railway regulation under the old law and of the widespread abuses which prevailed in railway management. President Roosevelt in his message of 1904 recommended that the powers of the commission be largely increased, first, by enabling the commission to fix rates and, second, by making its order effective against the carriers without resort to courts to compel performance. He asked that it be made performance. He asked that it be made an administrative tribunal with real power. This was done by the passage of the rate bill in June, 1903. The new act enables the commission to fix rates and gives efficacy to all of its orders by providing that they shall go into effect thirty days after they are unless suspended by an order of court and failure to comply with them is punishable by a fine of \$5,000 a day during the delinquency. Express companies, sleeping car companies and oil pipe line companies are brought under the jurisdiction of the commission as common carriers. The act gives the commission power to fix the rates for the various incidental services performed

by railways at ferminals and on the journey and to require them to be performed for every shibrer.

By withholding such services from one and extending them to another and by imposing varying charges for them com-panies have been able in the rest to make panies have been able in the past to panies have been able in the past to make them a convenient instrument for discrimination. The new law requires the publication of rates charged for such incidental services. Railroads are compelled to furnish cars without discrimination for the movement of traffic. After May, 1908, they are confined in their business strictly to transportation by a prevision strictly to transportation by a provision forbidding them after that date to transport for themselves anything but what is intended for their use as common carriers. cannot be trusted to deal fairly in matters eannot be trusted to deal fairly in matters of transportation between themselves and their competitors in an outside business. The new law makes radical changes in the matter of the publication of rates Under the old law, by means of what was called the "midnight tariff." a religious company gave favored shippers advence of the results of the result company gave favored shippers advance information of a contemplated reduction of rate and immediately restored the old rate when these shippers had profited by it. Thirty days notice is now required of any change in the rates unless the compission, for good cause, modifies the re

RESEMBLES NATIONAL BANKING ACT. Again, the new law enables the commission to prescribe a uniform system of ac-counting for railroads. Under the old law the dommission could call for a report of the railroads and might ask questions of railroads, but it had no way to compel a compliance with its request, and no penalty was provided in the law for failure to make the full report. Under the new law annual reports must be made under oath, and penalties are prescribed for failure to file them with the commission within a ourtain time. The commission can call for monthly or special reports. It may prescribe the bookkeeping methods of the carrier and has access at all times through examiners to the carrier's books. The carrier is forbidden to keep any other books than those prescribed. The commission's authority under the new law over interstate commerce railroads is thus in many respects like that of the Comptroller of the Currency over national banks, which has the approval and confidence of the country. GREAT OPPOSITION BY RAILROADS-THEIR

ARGUMENTS AGAINST BILL ARGUMENTS AGAINST BILL.

Never before was there such a united opposition by the railroad interests to any national measure as they instituted against the rate bill. A campaign of education was entered upon, speeches were made in every part of the country, and literature was showered upon the members of every community, with the hope of convincing the public that the bill was a dangerous innovation.

The objections urged against it were three. First, it was said to be unwise because it was a departure from the laissez faire destrine of as little government as possible and was a long step toward socialism and Government ownership.

OUTRAGED PUBLIC OPINION CARRIED THE

The revelations of infidelity to trust obli The revelations of infidelity to trust obligations in the insurance investigations in New York, the fraudulent discriminations in the traffic of the coal carrying roads disclosed by the inquiry made by the Interstate Commerce Commission and the disclosure of secret rebates on an enormous scale granted to the Standard Oil Company by the railroads in the report of Mr. Garfield, as Commissioner of Corporations, overcame such a specious argument, created a strong public opinion in favor of a radical remedy aganist all dishonest corporate practices, and held up the hands of those supporting the bill. supporting the bill. SECOND OBJECTION-INCOMPETENCY OF COM-

MISSION TO FIX RATES-PROVED TOO MUCH. The second ground of opposition was that a tribunal like the commission was utterly a tribunal like the commission was utterly unable to fix rates—that the fixing of rate was such a difficult matter, that only the expert traffic managers of railroads were competent for the work; that each rate was so connected with every other that it was impossible for a body of laymen to reach a safe and just conclusion in respect to any one rate without conclusion in respect to any one rate without conclusion. spect to any one rate, without creating hope spect to any one rate, without creating nopeless confusion. The argument proved too much. If the commission could not fix rates, then neither it nor a court could safely determine whether a rate was unreasonable, for exactly the same expert knowledge was needed to say that a rate was unreasonable as to say what was a maximum reasonable rate. Indeed, in the natural mental process, a maximum reasonable rate must be determined before declaring the rate in question unreasonable. All this inevitably led to the conclusion that there was no remedy either by commission or court against unreasonable rates, that the public was helpless, and that the whole matter must still be left to the only experts, the traffic managers of the railroads, although it was the dishonesty, discrimination and injustice of many of them which had been the cause of the traching which had been the cause of the trouble. Naturally, the argument had weight neither with Congress nor with the public. CONSTITUTIONAL OB ECTION BY RAILROADS WITHOUT WEIGHT

The third and final objection was that The third and final objection was that the law was invalid in that Congress was thereby delegating its legislative power to another body and was violating the general constitutional rule that delegated power cannot be delegated. The rule has an exception. There may be delegation of legislative power where the purpose in the original conferring of the power can be subserved only by its delegation to an the original conferring of the power can be subserved only by its delegation to an agent. It is admitted that the Constitution gives Congress the power to fix rates. Obviously, however, it is impossible for Congress as a body to spend the time and labor to do so. If the power is to be exercised at all, practically it can be done only through a tribunal or an agency like that of the Interstate Commerce Commission. Hence Congress may delegate the power under proper legislative limitations and rules of decision. A similar conclusion has been reached by a number of State courts with reference to the power of Legislatures under State Constitutions presenting the same question, and while the case ing the same question, and while the case has not, with respect to a Federal commission, been brought directly before the Supreme Court of the United States, there is a plain dictum in one decision in favor of the validity of such delegation of legislative

SMALL VOTE AGAINST BILL. The opponents of the bill were not able with these objections to muster more than 7 negative votes in the House of Represen-tatives, or 3 votes in the Senate. OPPONENTS OF RATE BILL NOW BELITTLE IT

AND PRAISE ELKINS BILL The opponents of the measure continu to denounce it, but now, instead of pointing out its disastrous effect, they say it is a failure and that in the year since its passage it has not helped a single shipper. They insist that the only effective and an all sufficient law to regulate railways is the Elkins act, passed in 1903, and that this is shown by the fact that all the prosecutions in which convictions have been had against railway companies and favored shippers n the last two years have been under th Elkins act and not under the rate bill.

Let us look into the facts in regard to this allegation. The chief prosecutions which have been instituted have been criminal indictments against the sugar trust and the Standard Oil Company and certain railways and their agents and officers for taking and giving secret money rebates. rate bill, because the acts prosecuted were committed before the passage of the rate

EFFECT OF FLKINS BILL ON EXISTING CRIMI

NAL PROSECUTIONS WAS TO SAVE RE-BATE GIVERS AND TAKERS FROM JAIL. It is true that these prosecutions were instituted under the Elkins act, but it is also true that had the Elkins bill never been passed the same acts could and doubtless would have been prosecuted as giving and receiving unjust discriminations against the persons committing them. against the persons committing them under the amendment to the interstate commerce act of 1889, which the Elkins law supplanted. The Elkins law was really an amendment to the interstate commerce act, enlarging and making more effective the procedure for prosecuting violations of the prohibitions of that law and describing them in more comprehensive form. It gave greater latitude in respect of the district where the offence would be prosecuted and it made the company necessarily responsible in a fine for the act of its agents, without other proof of the persons committing them pany necessarily responsible in a fine for the act of its agents, without other proof of direct complicity than the agency. Under the 1889 amendment, however, the individ-uals convicted could have been sent to the penitentiary, whereas under the Elkins act the punishment by imprisonment was taken away, while the fine was increased. The chief effect the Elkins law had on these particular prosecutions which have been given so much prominence was to make given so much prominence was to make it easier to convict the corporation and to increase its fine but to save the guilty individual perpetrators from imprisonment RAILROADS FAVORED ELKINS BILL BECAUS

OF ABOLITION OF JAIL PENALTY. It is well understood that the Elkins bill It is well understood that the Elkins bill was passed without opposition by and with the full consent of the railroads and that the chief reason for this was the elimination of the penitentiary penalty for unjust discriminations. The abolition of imprisonment as a possible penalty was unfortunate. Experience has shown that a mere fire is generally not enough to destruct the destruction. mere fine is generally not enough to deter a corporation from violation of the law, because it then becomes a matter of mere business speculation. The imprisonment of two or three prominent officers of a rail-way company or a trust engaged in giving or receiving secret relates, would have or receiving secret relates would have greater deterrent effect for the future than millions in a fine.

RATE BILL RESTORED JAIL PENALTY. In the rate bill, Congress amended the Elkins bill and restored imprisonment as part of the punisiment for secret rebates. Had the rebating and dishonest practices of the railroad companies and the trusts, been as clearly known to Congress and the public, when the Elkins bill was considered as they were when the rate bill was passed the Elkins bill would not have passed so smoothly.

PARED WITH RATE BILL I do not wish to decry the merits of the Elkins bill because, aside from its elimination of imprisonment as punishment, it is a most useful measure, but its scope is so narrow in respect of the regulation of railways that it cannot be compared in importance of operation and effect to the rate bill. The increase by the rate bill in the powers of the commission in supervision, investigaof the commission in supervision, investiga-tion, rate fixing and effective order making tion, rate fixing and effective order making to prevent discrimination is great. Elaborate machinery for making it difficult to violate the law without discovery and for discovering violations when they exist and for affording affirmative and mandatory relief in requiring railroads to furnish equal facilities to all is found in the provisions of the new rate bill. Criminal prosecutions will continue to be under the Elkins law, but as amended by the new rate bill. This is because the Elkins law, as amended, contains the part of the interstate commerce legislation which prescribes the punishment for violations of the law and so, in ordinary practice, comes into operation after the viopractice, comes into operation after the vio-lations have been discovered under the other provisions of the rate bill.

IF THE RATE BILL IS INEFFECTIVE WHY SUCH If the rate bill us ineppective why such rate bill was likely to be a failure and to accomplish nothing in the regulation of their business, the query naturally arises why did the railroads spend so much money and so great effort to defeat it? Why was it, if it had no effect, that in the interval between the time of its passage and its going into effect there were filed with the Interstate Commerce Commission more notices of reduced rates by the railroads than ever had been filed in the previous twenty years of the life of the interstate commerce law?

It is true that later on many rates were properly raised by the railroads because of an increase in wages and other cost of maintenance; but I only cite the prompt action of the railways on the passage of the bill as a recognition by them of the importance of the measure and the increased power of the commission.

The rate law has not been in operation a year and the beneficial results from its operations, though clear, are not ready to be presented in statistical array. Moreover, the chief benefit of the act is likely to be its influence in discouraging attempts to renew the old abuses and such benefits do not appear in statistics. The immediate effect of the act has certainly been to compel RAILROAD OPPOSITION?

do not appear in statistics. The immediate effect of the act has certainly been to compel effect of the act has certainly been to compel railroads to regard the commission now as the important tribunal whose views they must follow. They are manifesting every outward disposition strictly to comply with the law and to avoid prosecution or complaint. The time has gone by in which the action of the commission can be ignored or laughed at. The commission itself has taken up its duties with renewed energy, has proceeded, without awaiting the intervention of the railroads or the filing of complaints, to construe the act by adminomplaints, to construe the act by adm istrative rulings in order to assist the rail roads in complying with the law. With the large powers for correcting evils which the commission now has we may reasonably expect a marked improvement in the con-duct of the railways of the country.

THE ATTITUDE OF THE COUNTRY TOWARD THE RATE BILL. The passage of the bill was taken the country over, and properly taken, as a most important step toward the suppres-sion of abuses which had grown up in a period of tolerant prosperity. It was thought to be an effective cure of the arterial system of the country which had become poisoned by dishonesty, injustice and fraud. It was a great solace to the conscience of the country outraged by recent revelations of railway and trust management. Passed at the instance of Mr. Roosevelt it stands as a monument to the principle which he has incessantly maintained in speech and action, that the laws must be so made that they can be enforced as well against the sins of the wealthy and the powerful as

against those of the poor. ERROR OF MR. BRYAN AS TO COURT REVIEW IN RATE BILL. Bryan contends that the law was greatly weakened in authorizing, or recognizing, judicial intervention to restrain the orders of the commission. This criticism has not the slightest foundation. There can be no judicial appeal in the nature of a complete review on the merits from the commission to the Supreme Court or to the Circuit Court of the United States, for the commission is not a court of first instance. but only a mere administrative ribunal. The haly power a Federal court could validly exercise would be to decide first, whether the administrative tribunal had followed correctly the limitations upon its course of action imposed by the act of Congress creating it; and secondly, whether its order taken as an authorized expression of the legisative power deprived the rail-road company of its right, under the Four-

road company of its right, under the Four-teenth Amendment, to derive a fair profit from the use of its property. Whether the Federal courts were expressly given this power in the law or not, they would have had it under their general jurisdiction. If their power had not been recognized and a purpose of Congress had been expressed to prevent an appeal to the courts, the law would have been invalid. The extent of the judicial remedy could not be either diminished or enlarged by Congressional diminished or enlarged by Congressional action, with due regard to the validity of the act. Congress was wise, therefore, in not attempting to define what the court should or should not do, and in merely recognizing the right of the companies to appeal to the Federal courts to test the appeal to the Federal courts to test the validity of the action of the commission. No victory was gained by either the conservative or the radical party in this re

IMPORTANCE OF COURTS IN UPHOLDING CON-STITUTIONAL GUARANTEES. By what I have said, however, I would not for a moment be thought to favor any legis-lation which would exclude railroad comlation which would exclude railroad companies or any one else from a recourse to the courts to protect them in their statutory and constitutional rights. The courts, and especially the Supreme Court of the United States, are the part of our Government indispensable in making good those guaranties of life, liberty, property and the pursuit of happiness given in the Constitution and placed there by the people themselves to curb their own hasty action under stress of sudden impulse or with too little deliberation. The administration of exact justice by courts without fear or favor, unmoved by tion. The administration of exact justice by courts without fear or favor, unmoved by the influence of the wealthy or by the threats of the demagogue, is the highest ideal that a government of the people can strive for, and any means by which a suitor, however unpopular or poor, is deprived of enjoying this is to be condemned. It is important, however, that appeals to judicial remedies should be limited in such a way that parties will not use them merely to delay and so clog efficient and just executive or legislative action.

NEW AMENDMENTS TO THE RATE BILI The rate law does not go far enough. The practice under it has already disclosed the necessity for new amendments and will doubtless suggest more. Such is the true method—the empirical and tentative method of securing proper remedies for a new vil. The classification of merchandise for transportation is a most important matter transportation is a most important matter in rate fixing, for by a transfer from one class to another the rate is changed and may work injustice. With the power of rate fixing, it would seem, should go the power in the commission to classify and to pre-scribe rules for uniform classification by all

AMENDMENT NEEDED TO PREVENT OVER CAPITALIZATION.

Recent revelations have emphasized the pernicious effect of the so-called over-capitalization of railroads which aids unscrupulous stock manipulators in disposin of railway recurities at unreasonably high prices to innocent buyers. This evil would not of itself justify Federal restraint or control, because such stock and bonds are usually issued under State charters. The practice, however, has a tendency to diver the money paid by the public for the stock and bonds which ought to be expended in improving the roadbed, track and equip improving the roadbed, track and equip-ment of railways into the pockets of the dishonest manipulators and thus to pile such an unprofitable debt upon a railway as to make bankruptcy and a receivership probable in the first business stringency. This result in an interstate railway neces-sarily interferes with and burdens inter-state commerce and justifies the exercise of the regulative power of Congress to stop of the regulative power of Congress to stop

the practice. A railroad company engaged the practice. A failroad company engaged in interstate commerce should not be permitted, therefore, to issue stock or bonds and put them on sale in the market except after a certificate by the Interstate Commerce Commission that the securities are issued with the approval of the commission for a legitimate railroad purpose. The railroads that are honestly conducted would accept the certificate of the commission as a valuable one in the markets of the world, and only railway stock manipulators who and only railway stock manipulators who look to the floating of watered securities as their best source of profit would have

AMENDMENTS AGAINST PURCHASE OF STOCK DIRECTORS.

A much used means of eliminating competition among interstate lines serving the same territory is the acquisition by one company of the stock in another and the election of directors to represent that stock. This process is facilitated by the uncontrolled power to issue securities beyond the needs of the company for its legitimate business and would be curbed by the restriction proposed. The evil ought further to be directly restrained by making it unlawful for an interstate railway to acquire stock in a competing line. This is a simpler remedy of meeting the evil than by recourse to the anti-trust law under the Northern Securities case. In addition to this, competing lines should be prohibited from having common directors or officers. A much used means of eliminating com-PROPOSED AMENDMENTS PLAINLY CON STITUTIONAL.

These suggestions of additional legislation in respect to the supervision and control of interstate railways have been made by of interstate railways have been made by the Interstate Commerce Commission and I heartily concur in them. They are plainly within the Federal jurisdiction under the interstate commerce clause. I do not think that in order to accomplish a good which the Federal Government with its greater-resources and wider geographical reach can bring about more quickly and efficiently, the constitutional limits upon Federal action should be blurred out or an undoubted Federal power should be expanded by doubtful construction into a field which really belongs to the State. But the right of Congress to take any action, not confiscatory, gress to take any action, not confiscatory, in the most rigid control of interstate com-merce cannot be denied.

SUGGESTED BY HABRIMAN CONSOLIDATIONS. The measures taken and proposed are radical perhaps, viewed from the standpoint of the laissez faire doctrinaire whose ideas have been allowed to prevail in respect of railroad management down to the present; but no one can read the report of the commission on the history of the union of the Southern Pacific and Union Pacific vertex with the Illingia Central system. systems with the Illinois Central system without trembling at the enormous power that one man, by the uncontrolled used of the stock and bond issuing power of interstate railways under State charters, has acquired in respect of a vital power of the country's business and without looking for some means of remedying such a dangerous tendency which, if not stopped, will lead to the absorption of all the railroads of the country into one band country into one hand. RATE BILL AND PROPOSED AMENDMENTS NOT

SOCIALISTIC, BUT THE OPPOSITE The contention on behalf of the railroads. already noticed, that such supervision as the rate bill and these suggested amend-ments afford is socialistic and tends to ments afford is socialistic and tends to Government ownership is utterly without basis. Efficient regulation is the very antidote and preventive of socialism and Government ownership. The railroads until now have been permitted to wield without any real control the enormously important franchise of furnishing transportation to the entire country. They have constructed 230,000 miles of road. In certain respects they have done a mar-In certain respects they have done a mar-vellous work and have afforded transportation at a cheaper rate per ton, per mile and per passenger than in any country in the world. They have, however, many of them, shamelessly violated the trust obligation they have been under to the public of furnishing equal facilities at the same price to all shippers. The watering of stock

to all shippers. The watering of stock and bonds and the overcapitalization of some of them for the profit of their managers have prevented the needed improvement of their railroads in construction and equipment. The tremendous demand for increased facilities due to the enormous growth of business shows the inadequacy of their equipment and construction. they might not have been expected to meet in full such an extraordinary demand the obligations some of them have assumed in the form of stocks and bonds leave no doubt that had the money they represented been put into the roads in good faith the been put into the roads in good raith the shortage of cars and equipment and inade-quacy of roadbed and track would not be so great. They discharge a public func-tion. They have been weighed in the bal-ance and found wanting. The remedy for the evils must be radical to be effective. If it is not so, then we may certainly expect that the movement toward Government ownership will become a formidable one that cannot be stayed.

OBJECTIONS TO GOVERNMENT OWNERSHIP 1 am opposed to Government owner

ship—
First, because existing Government railways are not managed with either the
efficiency or economy of privately managed roads and the rates charged are not the public

Second, because it would involve an expenditure of certainly twelve billions of dollars to acquire the interstate railways and the creation of an enormous nationa

Third, because it would place in the hands of a reckless Executive a power of control over business and politics that the imagination can hardly conceive and danger. PROPOSED RAILWAY REGULATION NOT INCON

SISTENT WITH INDIVIDUALISM.

The supervision proposed need not ma-terially reduce the legitimate operation of individualism in railway enterprise. It will indeed limit the opportunity to ac-cumulate enormous fortunes through overcapitalization or secret rebates, but the legitimate profit which comes from close attention to operation, to efficiency of service and economy in details and from broad conceptions of new methods of reducing cost without impairing the service will not be disturbed in the slightest. There will not be disturbed in the slightest. There will not be disturbed in the slightest. There is no attempt to take away the property of the railway companies: there is no furnishing of public money to the enterprise and no public officers are required to administer the property. There is no more attempt in this law to make transportation a Government business than there is in the national banking act to making banking a Government business.

FAVORS RAILWAY RATE AGREEMENTS IF

STATE COMMERCE COMMISSION. The movement of competing railway companies to consolidate arose originally from fear that the anti-trust act forbade them to make agreements as to uniform tariffs. If they were now permitted to make such agreements subject to the approval of the Interstate Commerce Commerciation such a tendency would be a received. mission such a tendency would lose much of its force. It is impossible to prevent competing railways from seeking to make their tariffs uniform in order to prevent an unending and disastrous tariff war, and though such agreements are against law it is perfectly apparent that tacit arrangements for uniformity exist. These arrangements do not prevent the operation of competition from time to time, as one company finds that it may acquire new business without loss by a reduction of rate and insists on it, but they do prevent a tariff war which helps neither the public nor the railway by violent fluctuations in rates. As the public now asserts the right to fix maximum rates and thus to right to fix maximum rates and thus to all minimum the one of compression it is diminate one phase of competition, it is logical to permit an agreement on rates if approved by the Interstate Commerce if approved by the Interstate Commerce Commission, tribunal appointed to fix rates. The President and the commission both recommend a provision permitting such agreements. In this way there would be restored that respect for law which many railroad men in the last decade seem to have lost. Moreover, every company under such a system would be a policeman to see to it that every other company obeyed the agreement and the law and strictest obedience would be secured. PHYSICAL VALUATION.

Mr. Bryan is most insistent in discussing rate regulation that the present physical value of all roads in the country should be ascertained for the purpose of fixing rates by allowing to the railread companies only a fair profit on such valuation. Whenever

the Interstate Commerce Commission deems it important as an aid in fixing rates to de-termine what it would cost now to rebuild termine what it would cost now to rebuild any railroad it has complete power to do so; but it would doubtless be found in respect to most of them that in spite of overcapitalization and lack of economy in construction, land for terminals and right of way and the cost of construction have increased so enormously that the total of their securities upon which they pay dividends and interest is not much if any in excess of present physical value. More than this, physical valuation, as the President pointed out in his Indianapolis speech, and as the Supreme Court had in effect said before him, is only one of a number of data to be considered in reaching what is a fair profit upon the investment; and in determining a particular rate, the proper relation between that rate and the total net profit of operation is so complicated with an infinite variety of other circumstances that it is most difficult in rate fixing to use the latter to affect the former. The importance of fixing rates, complained of to use the latter to affect the former. The importance of fixing rates, complained of as too great in and of themselves, is much exaggerated; for the overwhelming evidence is that on the whole, rates in this country, especially as compared with those of all European railroads, many of which are owned and operated by the Government, are low. The chief evil consists in unjust discrimination in rates between individuals and localities. I do not object to valuation, if thought relevant to any issue, but I merely deprecate the assumption that it is to be the chief means of a great reform in rates.

FRIGHTFUL LOSS OF LIFE AND LIMS AMONG

FRIGHTPUL LOSS OF LIPE AND LIMB AMONG RAILWAY EMPLOYEES REQUIRES STRIN-GENT REGULATIONS. The frightful loss of life and limb among The frightful loss of life and limb among the railway employees of this country, reaching more than 4,000 killed and 65,000 injured in one year, has properly attracted the attention of Congress and the Legislatures. It makes apparent that service in connection with trains of a railway is an extra hazardous business and may well call for Government supervision and exceptional rules to secure the safety of the call for Government supervision and exceptional rules to secure the safety of the passengers and reduce the danger to employees. Congress, years ago, passed stringent laws for the adoption of safety devices to protect both employee and passenger on interstate railways. With the same purpose it has recently limited the hours of continuous service for which employees on such railways may be engaged. ployees on such railways may be engaged.

STATUTORY RULE FOR LIABILITY OF INTER-STATE RAILWAYS TO EMPLOYEES. Finally, it has regulated the rules for the liability of an interstate railroad company to an employee injured in its service. This is an important measure, for an unfortunate lack of uniformity has existed heretofore in respect to the rules of liability in such cases, dependent on the court in which the case has been tried. The new statute makes everything uniform as to interstate railroads. It has introduced into Federal law what is called the comparative negligence theory by which if an emtive negligence theory by which if an em-ployee is injured proof of negligence on his part does not forfeit his claim for damages entirely unless the accident was due solely to his negligence. If there was negligence by the company, the jury is authorized to apportion the negligence and award compensation for the proper part of the damage to the employee, and the question of negligence is always for the jury.

ABOLITION OF FELLOW SERVANT RULE ABOLITION OF FELLOW SERVANT RULE.

The most important provision of this law, however, is that abolishing what is known as the fellow servant rule, by which an employee injured cannot recover from his employer for injury sustained through the negligence of a coemployee. This rule was incorporated into the law by Chief Justice Shaw of Massachusetts, on the ground of public policy. It was acquiesced in by the courts of England and of this country. Whatever may have been the wisdom of the rule originally, a change of conditions justifies ever may have been the wisdom of the rule originally, a change of conditions justifies its abrogation. Public policy can be changed by statute, so that this exemption from liability is not secured by the Constitution to the railroad companies. The abolition of the exemption certainly furnishes a strong motive to the railroad companies for the exercise of greater care in the selection, supervision and control of all of their employees, which tends not only to the safety plovees, which tends not only to the safety of their employees but also to the safety of NEW LAW WILL LEAD TO SETTLEMENT OF

With these changes all claim by em-ployees against railroad companies except in a few extreme cases will doubtless be settled by the railway companies without litigation, just as they now settle without suit substantially all claims for injuries passengers. The validity of this law is under consideration by the Supreme Court. The only serious doubt in regard to its constitutionality grows out of some carelessness of language in limiting its application to difficulty in reenacting it in proper form TRUSTS.

I pass now from railway regulation and the abuses arising in the discharge of a public function to the evils which have grown out of the combinations existing in private business and so come to the subject of trusts. The combination of capital in of trusts. The combination of capital in large plants to manufacture goods with the greatest economy is just as necessary as the assembling of the parts of a machine to the economical and more rapid manufacture of what in old times was made by hand. The Government should not inter fere with the one any more than the other In the proper operation of competition the public wilf soon share with the manufacturer the advantage in lowered prices. When, however, such combinations not only lower the cost to themselves but are able to control the market and maintain or raise the old prices the public derives we raise the old prices, the public derives no benefit and is helpless in the hands of

monopoly. Fear of the existence of such an abuse led to the passage of the anti-trust law in 1890. It recognizes two forms in which this evil may be maintained. One is by an agreement among a number of different manufacturers of an article for the main-tenance of the price of the article and the suppression of competition. This is de-nounced when the contract is in restraint of interstate trade as a criminal offence against the United States, punishable by fine and imprisonment, and a conspiracy which may be restrained by injunction in a civil suit. The other form is denounced, with similar remedies against it, as a mornely of interstate trade and covers the nopoly of interstate trade and covers the union of the conspiring companies into one company which by owning all the plant or nearly all the plant engaged in the manufacture of the product and by use of other devices controls the prices. The Supreme Court of the United States has not defined what a monopoly under this section of the DEFINITION OF UNLAWFUL MONOPOLY.

DEFINITION OF UNLAWFUL MONOPOLY.

I conceive that it is not sufficiently defined by saying that it is the combination of a large part of the plants in the country engaged in the manufacture of a particular product in one corporation. There must be something more than the mere union of capital and plant before the law is violated. There must be some use by the company of the comparatively great size of its capital and plant and extent of its output, either to coerce persons to buy of it rather than of some competitor, or to coerce those who some competitor, or to coerce those who would compete with it to give up their business. There must, in other words, be an element of duress in the conduct of its business toward the customers in the trade and its competitors before mere aggregation of plant becomes an unlawful monopoly. and its competitors before mere aggregation of plant becomes an unlawful monopoly. It is perfectly conceivable that in the interest of economy of production a great number of plants may be legitimately assembled under the ownership of one corporation. In such a case it is either not a trust, if the term involves unlawfulness, or it is a lawful trust, if a trust merely means a company which has assembled a large part of the manufacturing plant of any product. It may be, as Mr. Bryan in his controversy with Senator Beveridge says, that there is a limit in the union of capital and plant that will effect economy, and that after that limit is reached the increase of the plant or the capital rather and that after that limit is reached the increase of the plant or the capital rather enlarges the risk in the management of the business, and is likely to increase the cost of production rather than to diminish it. If so, then, when a corporation goes beyond that limit there is a reasonable presumption that it is doing so for the purpose of monopolizing trade. MERE AGGREGATION OF ALL PLANTS IN ONE

OWNERSHIP DOES NOT SUPPRESS It must be borne in mind that in a country

TAMES McCUTCHEON & CO. beg to announce that they have removed to their new stores, No. 345 Fifth Avenue (oppo-

The accompanying diagram shows the location. FAST 34TO STREET New Stores HOTEL JAMES Mª CUTCHEON & CO. WALDORF EAST 33 STREET

Removal Notice

site Waldorf-Astoria), and Nos. 2, 4 and 6 East 34th Street.

Registered

Until the 34th St. building is completed the 5th Ave. entrance only will be used.

"THE LINEN STORE." James McCutcheon & Co., 5th Ave. & 34th St.

like this, where there is an enormous floating capital awaiting investment, the time within which competition by construction of new plants can be introduced into any of new plants can be introduced into any business is comparatively short, rarely exceeding a year, and usually in even less time than that. Many enterprises have been organized on the theory that mere agregation of all or nearly all existing plants in a line of manufacture, without regard to economy of production, destroys competition. They have, most of them gone into bankruptcy. Competition in a profitable business will not be excluded by the mere aggregation of many existing plants under one company, unless the company thereby effects great economy or takes some illegal method to avoid competition and to perpetuate a hold on the business.

ILLEGAL DEVICES BADGES OF UNLAWFUL

TRUSTS.

Frequently contracts have been made with customers by which they are required to deal exclusively with the trust, on the threat that if there is not this exclusive dealing, then at a time when they most need the product, it will not be sold to them at all, or only at a very high price, and one prohibitive of profit on their part. Again, the tremendous wealth and resources of the trust, are exerted to destroy a rival in a particular locality by selling at a very low price in that neighborhood and driving him out of business, and then raising the prices. This can be easily detected by the inequality of the prices which the trust asks for the same commodity in different localities under the same conditions. Such or like methods bring the company within the description of a monopoly, at which the anti-trust law is directed. I am inclined to the opinion that the time is near at hand for an amendment of the anti-trust law defining in more detail the evils against which fining in more detail the evils against which it is aimed, making clearer the distinction between lawful agreements reasonably restraining trade and those which are per-nicious in their effect, and particularly denicious in their effect, and particularly de-nouncing the various devices for monopo-lizing trade which prosecutions and in-vestigations have shown to be used in actual practice. The decisions of the courts and the experience of executive and prosecuting officers make the framing of such a statute possible. It will have the good effect of making much clearer to those business men who would obey the laws the methods to be avoided.

SECRET REBATES MOST EFFECT TO MAINTAIN

Another and perhaps the most effective method in the past for an unlawful trust to maintain itself has been to secure secret rebates or other unlawful advantage in transportation by threat of withholding business from the carrier. This is un-doubtedly what has enabled the Standard doubtedly what has enabled the Standard oil Company and the sugar trust and other great combinations to reap an illegal harvest and to drive all competitors from the field. If by asserting complete Federal control over the interstate railways of the country we can suppress secret rebates and discriminations of other kinds, we shall have gone a long way in the sup-pression of the unlawful trusts.

ANSWER TO ME. BRYAN'S QUESTION: WHAT SHOULD BE DONE TO TRUSTS? GOVERNMENT ACTION.

Mr. Bryan asks me what I would do with the trusts. I answer that I would restrain unlawful trusts with all the efficiency of injunctive process and would punish with all the severity of criminal prosecution every attempt on the part of aggregated capital through the illegal means I have described to suppress competition.

There has been great activity in the Department of Commerce and Labor and in the Department of Justice in an effort to investigate and restrain the continuance of such unlawful methods, and the success which has attended this effort in the dissolution of a number of such trusts where Mr. Bryan asks me what I would do with

solution of a number of such trusts where they consisted of several companies or partnerships united by a contract in re-straint of trade has been gratifying. In the case of those who have made themselves into one corporation their restraint is more difficult. It involves enormous labor on the part of the Government to prosecute such a combination because the proof of the gist of the offence lies underneath an almost limitless variety of transactions. In the outset it can be correct. actions. In the outset it can be very much more easily reached by bill in equity than in a criminal prosecution and the questions of law arising may be more quickly settled. When the law is declared so that the corporation understands exactly the limits upon its action and it then pursues its previous illegal methods, nothing but criminal prosecution ought to be resorted to. WHY TRUST PROMOTERS HAVE NOT BEEN IMPRISONED.

Mr. Bryan is continually asking why some of the managers of unlawful trusts have not been convicted and sent to the penitentiary? I sympathize with him in his wish that this may be done, because I think that the imprisonment of one or two would have a most healthy effect throughout the country; but even without such imprisonment I believe that the prosecutions which are now on foot and the injunctions which have already been issued have had a marked effect on business methods. One reason for the small number of sentences of imprisonment in trust prosecutions. of imprisonment in trust prosecutions is that the revelations of unlawful trust meth ods and dishonesty have been chiefly made known in secret rebates, and, aa I have al-ready said, the Elkins act, until amended by the rate bill, only prescribed fines as a mode of punishment in such cases. JURIES HESITATE TO IMPRISON BY THEIR

Again, it is difficult to induce juries Again, it is difficult to induce juries to convict individuals of a violation of the anti-trust law if imprisonment is to follow. In the case of the tobacco trust the Government declined to accept a plea of guilty by the individual defendants, offered on condition that only the penalty of a fine be imposed, and the result was that the jury did not hesitate to stultify itself by finding the corporation guilty and acquiting the did not hesitate to stultify itself by finding the corporation guilty and acquitting the individual defendants, who had personally committed the acts upon which the conviction of the corporation was based. In the early enforcement of a statute which makes unlawful, because of its evil tendencies, that which has been in the past regarded as legitimate, juries are not inclined by their verdicts to imprison individuals. The course which the Government has pursued of resorting to civil processes first and clarifying the meaning of a general statute which needs definition, is probably the best course to pursue. As the abiy the best course to pursue. As the

criminal prosecutions go on (and many such prosecutions have now been begun; if the violations of the trust law are continued, undoubtedly some shining marks will be hit, but the vigor with which these prosecutions have been continued has created an anxiety among those engaged in doubtful enterprises that has either driven them out of the business or made them careful not to give occasion for further complaint.

Established

Half a Centur,

BRYAN'S "EXTIRPATION ROOT AND BRANCH."

Mr. Bryan says "He would extirpate trusts, root and branch." If Mr. Bryan's language is more than mere rhetoric and he means to seize the property, to divide it up and sell it in pieces and disassemble the parts, then I am not in favor of his method of dealing with trusts, because I believe that such large combinations legitimately conducted greatly add to the prosperity of the country. The attitude of the Government toward combinations of capital for the reduction in the cost of production should be exactly the same as toward the combinations of labor for the purpose of bettering the conditions of the wage worker and of increasing his share of the joint profit of capital and labor. They are both to be encouraged in every, way as long as they conduct themselves within the law. They both wield enormous power and if wielded for good can be of inestimable benefit. Their power for evil when in the control of unscrupulous men is such that if it is to be restrained it needs the use of all the means which the Executive and the courts can lawfully command. I think it entirely possible by the rigorous prosecutions of the law against illegal combinations and by the equal and just operation of railways to prevent a recurrence of what we have had in the past and to restrain within BRYAN'S "EXTIRPATION ROOT AND BRANCH.

ways to prevent a recurrence of what we have had in the past and to restrain within the bounds of legitimate and useful business all these great corporations.

FEDERAL LICENSE OF ALL INTERSTAT BUSINESS CORPORATIONS.

Mr. Bryan's method of suppressing unlawful trusts would be to require every person, partnership or corporation engaged in interstate traffic to take out a Federal license, and by withholding such licenses from illegal trusts he would make them impossible. It is probable that a statute embodying this plan could be drawn which would stand the test of the Constitution. It would, however, have to contain some provision for ultimate judicial determination of those applicants for license who were violating the anti-trust law and thus involve the same litigation we now have involve the same litigation we now There is danger that its effect would be so to clog the channels of legitimate interstate trade that after it had been tried that the records of the country so to clog the channels of legitimate interstate trade that after it had been tried for a short time the people of the country would regard it as burdensome and demand its repeal. It is important that in new legislation to stamp out evils we should not so annoy the lawabiding in the community as to lose their sympathy in the reform. This plan has had the approval of Mr. Garfield and others. I was at first inclined to think that this was a practical method, but fuller consideration, for the reasons given, makes me doubt. The decision of the Supreme Court that a corporation cannot refuse to disclose facts which will criminate itself makes less important the advantage which the license system was supposed to furnish in keeping the business of a corporation under observation Until it is clearer than at present that the evils of unlawful obmbinations cannot be supressed without it, it seems to me such a plan ought not to be tried.

EVIL OF SWOLLEN FORTUNER. One of the results of the conditions and evils which I have been describing has been the concentration of enormous wealth in the hands of few men. I do not mean to say that all the large fortunes are to be traced to unlawful means, but it is quite clear that many of those described as swollen are due to rebates or to some form of unlawful monopoly or to overcapitalization. Of course great to some form of unlawful monopoly or to overcapitalization. Of course great enterprises organized and managed by men of transcendent ability should result in great profit to them. It is proper compensation when they share with the people the profit from the economies that they introduce in the business by reducing the price. The captains of legitimate industry, therefore, are entitled to large reward, and it is impossible to impose a fixed limitation upon the amount which they may accumulate.

LEGISLATION, NOT CONFISCATORY, HAVING TENDENCY TO DIVIDE SUCH FORTUNES
AND TO DISCOURAGE THEIR AC-CUMULATION, NOT SOCIALISTIC

On the other hand it is not safe for the body politic that the power arising from the management of enormous or swollen fortunes should be continued from generation to generation in the hands of a few and efforts by laws, which are not confiscatory, to divide these fortunes and to reduce the motive for accumulating them are proper and statesmanlike and without the slightest savor of socialism or anarchy. The law of primogeniture was abolished in States were it had been adopted, merely for the purpose of securing a division of the land among the children of the man who owned the land. Many of the provisions of our public land laws are drawn to discourage the union of large tracts in one ownership and to encourage small holdings. On the other hand it is not safe for ownership and to encourage small holdings BEST REMEDY TO BE FOUND IN STATE LEGIS LATION.

LATION.

The State Legislatures have complete control of what shall be done with a man's property on his death. He has no right to leave it by will, and his children or heirs have no right to receive it which the Legislatures may not modify or take away. The States, therefore, can best remedy the dangers of too great accumulation of wealth in one hand by controlling the descent and devolution of property and they ought to so. They can adopt the French method which requires the division of a large part of a man's fortune between all his children and gives him absolute power with respect to only a fraction. This would secure a division in the second generation and a probable change for the better in respect to such fortunes. Many of the States have already and properly adopted a graduated inheritance tax which not only reduces the great fortune but lessens the motive for its accumulation.

FEDERAL GOVERNMENT MAY PROPERLY LEND

Federal action for a Federal end may legitimately have an indirect effect to aid the States in reforms peculiarly within their cognizance. When, therefore, the Govern-